IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3165 of 2007()

CC.1880/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: 2ND ACCUSED

RAMAN, AGED 47, S/O. KANDAN,
KAKKATTUVEETTIL, VADAKKUM MURI, THRISSUR DISTRICT,
NOW RESIDING AT MUNDAKKAL PARAMBIL,
AROOKKUTTIMANGALAM KARA, VAIKOM TALUK,
KOTTAYAM DISTRICT.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISE,
VYTTILA BRANCH.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3165 of 2007

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Dated this the 18th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sections 420 and 471 I.P.C. Though cognizance has been taken in 2004, the petitioner has not so far entered appearance. Coercive processes have been initiated against the petitioner by the learned Magistrate. The petitioner now finds such warrant of arrest chasing him.

2. According to the petitioner he is absolutely innocent. He has not received any notice or processes from the court. His failure/omission to appear earlier was not wilful. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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